

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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| In re REFCO CAPITAL MARKETS, LTD.<br>BROKERAGE CUSTOMER<br>SECURITIES LITIGATION   | 06 Civ. 643 (GEL) |
| VR GLOBAL PARTNERS, L.P., et al.,<br><br>Plaintiffs,<br><br>v.<br><br>PHILIP R. BENNETT, et al.,<br><br>Defendants.                | 07 Civ. 8686      |
| CAPITAL MANAGEMENT SELECT<br>FUND, LTD., et al.,<br><br>Plaintiffs,<br><br>v.<br><br>PHILIP R. BENNETT, et al.,<br><br>Defendants. | 07 Civ. 8688      |

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of the THL Defendants' Motion to Dismiss, the accompanying Declaration of Richard A. Rosen dated February 21, 2008, and the exhibits annexed thereto, defendants Thomas H. Lee Partners, L.P., Thomas H. Lee Advisors LLC, THL Managers V, LLC, THL Equity Advisors V, LLP, Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P., Thomas H. Lee Equity (Cayman) Fund V, L.P., Thomas H. Lee Investors Limited Partnership, 1997 Thomas H. Lee Nominee Trust, Thomas H. Lee, David V. Harkins, Scott L. Jaeckel, and Scott A. Schoen will move this Court, before the Honorable Gerard E. Lynch, United States District Judge, United States

District Court for the Southern District of New York, 500 Pearl Street, New York, New York, at a date and time to be set by the Court, for an order, pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure and Section 101(b) of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, dismissing with prejudice the complaints in the above-captioned actions.

Dated: New York, New York  
February 21, 2008

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP

By: /s/ Richard A. Rosen  
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